

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| Revision of the Commission's |) | |
| Rules To Ensure Compatibility |) | |
| With Enhanced 911 Emergency |) | CC Docket No. 94-102 |
| Calling Systems |) | |
| |) | |
| Sprint Request for a Limited |) | |
| And Temporary Rule Waiver |) | |

Comments of T-Mobile USA, Inc.

T-Mobile USA, Inc. ("T-Mobile") supports the request of Sprint Corporation, on behalf of Sprint Spectrum, LP ("Sprint"), for a limited and temporary waiver of Section 20(g)(1)(iv) of the Commission's rules. This rule requires wireless carriers using a handset-based E911 Phase II location technology to ensure that all new digital handsets activated as of December 31, 2002 are location-capable. Sprint has requested a six-month extension of that deadline and notes a number of factors, such as the effect of the economy on the wireless marketplace and a negative subscriber growth rate in the third quarter of 2002, that have hampered its efforts to replace its entire handset line with new location-capable handsets and to eliminate its existing inventory of non-location capable handsets.

When the Commission amended its rules to accommodate handset-based Phase II solutions just over three years ago, it knew that handset-based technologies, though promising, were still in development. The Commission adopted what it described as an

“aggressive” phase-in schedule,¹ intended to serve the public interest with the most rapid deployment of E911 capabilities possible. But it also indicated its belief and intent that the schedule was “reasonable”² based on its knowledge at the time, and that the rapid rollout of Phase II capabilities could be achieved “through normal handset turnover and growth.”³

Inherent in these views is a recognition that the assumptions underlying the timetable – the timing of the final development and testing of the technologies, a healthy economy, growing subscribership, and relatively frequent handset replacement – *could* change.⁴ If so, the Commission would need to revisit its timetables, whether universally or on a case-by-case basis. Ultimately, the Commission indicated, “good faith, reasonable efforts [by manufacturers and carriers] should be sufficient.”⁵

The Commission has revisited and revised the timetables where necessary,⁶ and T-Mobile believes it should do so here. Sprint requests limited relief for meeting an intermediate benchmark, a temporary accommodation based on economic realities that

¹ *In the Matter of Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, Third Report and Order, CC Docket No. 94-102, (1999), ¶ 21. *See also id.* at ¶ 45 (“While aggressive, we believe the initial handset deployment schedule we are requiring for such solutions is achievable for wireless carriers.”)

² *Id.* at ¶ 28.

³ *Id.* at ¶ 8.

⁴ The Commission observed: “[S]uch predictions are not guarantees. For any of several reasons (*e.g.*, a recession, declining growth rates, or early deployment of non-ALI capable digital phones that customers elect not to replace), the actual pace of ALI-capable handset deployment could lag . . .” *Id.* at ¶ 17.

⁵ *Id.* at ¶ 54.

⁶ For example, when the Commission modified the handset deployment benchmarks for several carriers in 2001, it reflected on its original schedule imposed two years earlier: “During the course of the E911 proceeding, the Commission recognized that the E911 deployment schedule was aggressive in light of the need for further technological advancement. Nonetheless, the Commission *predicted* that ALI technologies would generally be available in sufficient time for carriers to comply.” *Wireless E911 Implementation Plan of Nextel Communications, Inc.*, Order, CC Docket No. 94-102, 16 FCC Rcd 18277 (2001) ¶ 6 (emphasis added).

are different from those prevailing in 1999. Nokia, the world's largest handset manufacturer, issued six warnings of "softer-than-expected sales" in 2002 and noted "U.S. markets were particularly soft."⁷ A trade journal recently reported that Sony Ericsson "experienced a precipitous drop in its phone sales, with shipments decreasing 30 percent."⁸ Further, one manufacturer has observed that the average replacement cycle for a handset has risen to 2.5 years.⁹ Because manufacturers previously relied on consumers to upgrade their phones every 18 months, this change could affect both the introduction of new products and the elimination of old inventory.

The Commission acted in the public interest when it imposed an aggressive timetable for ALI deployment given the benefits that it will bring. But it also is in the public interest to recognize carrier and manufacturer achievements and to accommodate changed circumstances. For these reasons, T-Mobile encourages the Commission to remain both realistic and appropriately flexible when it reviews the deployment progress of all carriers.

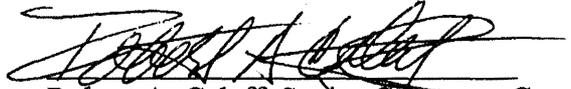
⁷ Reuters, *Nokia Sees New Phones Failing to Q4 Targets* (December 10, 2002).

⁸ RCR Wireless News, *Nokia, Samsung Gain More Ground*, p. 1 (December 2, 2002).

⁹ Wireless Week, *Handsets: Catching Customers with Color*, p. 6 (January 1, 2003).

Respectfully submitted,

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